

CHAPTER 127

FLAMMABLE OR COMBUSTIBLE LIQUIDS — MISCELLANEOUS PROVISIONS

H.F. 640

AN ACT relating to liquids which are flammable or combustible, by providing for the storage, marketing, and distribution of such liquids, providing for the marketing and distribution of liquids classified as motor fuel, including a conventional blendstock for oxygenate blending, and blended and unblended gasoline and diesel fuel, extending the period for determining the rates of the motor fuel tax based on calculating the distribution of ethanol blended gasoline and other motor fuel, including fees and penalties, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I LEGISLATIVE INTENT

Section 1. **USE OF RENEWABLE FUELS.** The general assembly finds and declares all of the following:

1. In accordance with the federal Energy Policy Act of 2005, Pub. L. No. 109-58, as amended by the federal Energy Independence and Security Act of 2007, Pub. L. No. 110-140, the United States has demonstrated its commitment to the long-term policy of increasing the production of clean renewable fuels according to a renewable fuel standard, sometimes referred to as “RFS2,” by requiring the increased domestic production and use of renewable fuels, which include total renewable biofuels such as ethanol, advanced biofuels, cellulosic and agricultural waste-based biofuels, and biomass-based biodiesel.

2. The renewable fuel standard provides the foundation for reducing dependence on foreign sources of crude oil, reducing the price of domestic transportation fuels, reducing greenhouse gases, increasing farm income, and encouraging the development and expansion of a new industry, and consequently promoting economic growth.

3. The rising price of petroleum hampers this nation’s economic recovery and contributes to increasing retail prices, including increased costs attributable to the transportation of food and other goods, that drain the finances of both consumers and business.

4. The United States Environmental Protection Agency is responsible for establishing and implementing the renewable fuel standard, including by requiring that certain volumes of various types of biofuels be blended in transportation fuels each year with authority to adjust those volumes due to availability.

5. The United States government should renew its commitment to this nation’s energy security, move the United States toward greater energy independence and security as required by the federal Energy Independence and Security Act, and use all efforts to meet the highest possible renewable fuel volume requirements set forth in the renewable fuel standard in order to ensure that this nation achieves energy independence.

DIVISION II MOTOR FUEL MARKETING

Sec. 2. Section 214A.1, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. “*Distributor*” means the same as defined in section 452A.2.

NEW SUBSECTION. 12A. “*Marketer*” means a dealer, distributor, nonrefiner biofuel manufacturer, or supplier.

NEW SUBSECTION. 16A. “*Nonrefiner biofuel manufacturer*” means the same as defined in section 452A.2.

NEW SUBSECTION. 18A. “*Pipeline company*” means the same as defined in section 479B.2.

NEW SUBSECTION. 18B. “*Refiner*” means a person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

NEW SUBSECTION. 23A. “*Supplier*” means the same as defined in section 452A.2.

NEW SUBSECTION. 23B. “*Terminal*” means the same as defined in section 452A.2.

NEW SUBSECTION. 23C. “*Terminal operator*” means the same as defined in section 452A.2.

NEW SUBSECTION. 23D. “*Terminal owner*” means the same as defined in section 452A.2.

Sec. 3. Section 214A.20, subsection 1, Code 2013, is amended to read as follows:

1. A retail dealer or other marketer, pipeline company, refiner, terminal operator, or terminal owner is not liable for damages caused by the use of incompatible motor fuel dispensed at the retail dealer’s retail motor fuel site, if all of the following applies:

a. The incompatible motor fuel complies with the specifications for a type of motor fuel as provided in section 214A.2.

b. The incompatible motor fuel is selected by a person other than the retail dealer, including an employee or agent of the retail dealer, the end consumer of the motor fuel.

c. The incompatible motor fuel is dispensed from a motor fuel pump that correctly labels the type of fuel dispensed.

Sec. 4. Section 323.1, Code 2013, is amended by adding the following new subsections:

NEW SUBSECTION. 01. “*Blender pump*” means a motor fuel blender pump as defined in section 214.1 that dispenses motor fuel or special fuel in a manner required pursuant to chapters 214 and 214A.

NEW SUBSECTION. 3A. a. “*Dispenser*” means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel or special fuel, including renewable fuel, originating from a storage tank used to store fuel.

b. “*Dispenser*” includes but is not limited to a motor fuel pump or blender pump.

NEW SUBSECTION. 7A. “*Motor fuel pump*” means the same as defined in section 214.1 that dispenses motor fuel or special fuel in a manner that complies with standards set forth in chapters 214 and 214A.

NEW SUBSECTION. 7B. “*Refiner*” means a person engaged in the refining of crude oil to produce motor fuel or special fuel, and includes any affiliate of such person.

NEW SUBSECTION. 7C. “*Renewable fuel*” means the same as defined in section 214A.1 that complies with standards set forth in section 214A.2.

NEW SUBSECTION. 11. “*Storage tank*” means a motor fuel storage tank as defined in section 214.1, including an underground storage tank subject to regulation under chapter 455G.

NEW SUBSECTION. 12. “*Supplier*” means the same as defined in section 452A.2.

Sec. 5. NEW SECTION. **323.4A Use of renewable fuel.**

1. Except as provided in subsection 3, this section applies to a supply agreement or other document executed on or after the effective date of this division of this Act by parties who are receiving and furnishing motor fuel or special fuel as follows:

a. A dealer who is a party receiving motor fuel or special fuel from another party who is a refiner, supplier, or distributor furnishing the motor fuel or special fuel.

b. A distributor who is a party receiving motor fuel or special fuel from another party who is a refiner, supplier, or other distributor furnishing the motor fuel or special fuel.

2. A supply agreement or other document shall not contain a provision restricting a dealer or distributor who is a party receiving motor fuel or special fuel from the other party furnishing the motor fuel or special fuel as described in subsection 1 from doing any of the following:

a. Installing, converting, or operating a storage tank or a dispenser located on the distributor’s or dealer’s business premises for use in storing or dispensing renewable fuel. However, this paragraph does not apply to a dealer or distributor whose business premises are leased from the other party furnishing the renewable fuel.

b. Using a dispenser to dispense ethanol blended gasoline, including gasoline with a specified blend or a range of blends under chapter 214A, if the dispenser is approved as required by the state fire marshal for dispensing the specified blend or range of blends, including as provided in section 455G.31.

c. Purchasing, selling, or dispensing motor fuel or special fuel that is a renewable fuel from a source other than the party furnishing other motor fuel or special fuel, if such party furnishing the other motor fuel or special fuel does not furnish motor fuel or special fuel that is a renewable fuel for sale by the distributor or dealer.

d. Marketing the sale of any renewable fuel, including but not limited to advertising its availability or price on a sign, on a dispenser, or by media.

e. Selling or dispensing renewable fuel in any specified area located on the distributor's or dealer's business premises, including but not limited to any area in which a name or logo of a franchiser or any other entity appears.

f. Using a payment form for the sale of a renewable fuel by the retail dealer that is the same type as the payment form used for the sale of another type of motor fuel or special fuel by the dealer on the dealer's retail premises.

3. This section does not apply to any activity that constitutes mislabeling, misbranding, willful adulteration, or other trademark violation by a dealer.

Sec. 6. Section 452A.2, Code 2013, is amended by adding the following new subsections:
NEW SUBSECTION. 6A. "*Conventional blendstock for oxygenate blending*" means one or more motor fuel components intended for blending with an oxygenate or oxygenates to produce gasoline.

NEW SUBSECTION. 9A. "*Diesel fuel*" or "*diesel*" means diesel fuel as defined in section 214A.1.

NEW SUBSECTION. 28A. "*Nonrefiner biofuel manufacturer*" means an entity that produces, manufactures, or refines biofuel and does not directly or through a related entity refine, blend, import, or produce a conventional blendstock for oxygenate blending, gasoline, or diesel fuel.

NEW SUBSECTION. 30A. "*Refiner*" means a person engaged in the refining of crude oil to produce motor fuel or special fuel, and includes any affiliate of such person.

NEW SUBSECTION. 37A. "*Terminal owner*" means a person who holds a legal interest or equitable interest in a terminal.

Sec. 7. NEW SECTION. **452A.6A Right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel.**

1. a. A dealer or distributor may blend a conventional blendstock for oxygenate blending, gasoline, or diesel fuel using the appropriate biofuel, or sell unblended or blended gasoline or diesel fuel on any premises in this state.

b. Paragraph "a" does not apply to the extent that the use of the premises is restricted by federal, state, or local law.

2. A refiner, supplier, terminal operator, or terminal owner who in the ordinary course of business sells or transports a conventional blendstock for oxygenate blending, gasoline unblended or blended with a biofuel, or diesel fuel unblended or blended with a biofuel shall not refuse to sell or transport to a distributor or dealer any conventional blendstock for oxygenate blending, unblended gasoline, or unblended diesel fuel that is at the terminal, based on the distributor's or dealer's intent to use the conventional blendstock for oxygenate blending, or blend the gasoline or diesel fuel with a biofuel.

3. This section shall not be construed to do any of the following:

a. Prohibit a distributor or dealer from purchasing, selling or transporting a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

b. Affect the blender's license requirements under section 452A.6.

c. Prohibit a dealer or distributor from leaving a terminal with a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

d. Require a nonrefiner biofuel manufacturer to offer or sell a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

4. A refiner, supplier, terminal operator, or terminal owner who violates this section is subject to a civil penalty of not more than ten thousand dollars per violation. Each day that a violation continues is deemed a separate offense.

DIVISION III STORAGE TANKS

Sec. 8. Section 101.21, subsection 1, paragraphs a through c, Code 2013, are amended to read as follows:

- a. ~~Aboveground tanks of~~ An aboveground tank which complies with any of the following:
- (1) Has one thousand one hundred gallons or less capacity.
 - (2) Stores flammable liquids on a farm located outside the limits of a city, if the aboveground tank has two thousand gallons or less capacity.
 - (3) Stores combustible liquids on a farm located outside the limits of a city, if the aboveground tank has five thousand gallons or less capacity.
- b. ~~Tanks~~ A tank used for storing heating oil for consumptive use on the premises where stored.
- c. ~~Underground~~ An underground storage tanks tank as defined by section 455B.471.

Sec. 9. Section 101.21, Code 2013, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. a. "Farm" means land and associated improvements used to produce agricultural commodities, if at least one thousand dollars is annually generated from the sale of the agricultural commodities.

b. As used in paragraph "a", "*commodities*" means crops as defined in section 202.1 or animals as defined in section 459.102.

Sec. 10. Section 101.22, subsections 4 through 8, Code 2013, are amended to read as follows:

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by an annual fee of ~~ten~~ twenty dollars for each tank included in the notice. All moneys collected shall be retained by the department of public safety and are appropriated for the use of the state fire marshal. The annual renewal fee applies to all owners or operators who file a registration notice with the state fire marshal pursuant to subsections 1 through 3.

~~5. A person who deposits flammable or combustible liquid in an aboveground flammable or combustible liquid storage tank shall notify the owner or operator in writing of the notification requirements of this section.~~

6. A person who sells or constructs a tank intended to be used as an aboveground storage tank shall notify the purchaser of the tank in writing of the notification requirements of this section applicable to the purchaser.

~~7. 6. It is unlawful to deposit flammable or combustible liquid in~~ An owner or operator shall register an aboveground flammable or combustible liquid storage tank which has not been registered pursuant to subsections 1 through 4.

~~8. 7.~~ The state fire marshal shall furnish the owner or operator of an aboveground flammable or combustible liquid storage tank with a registration tag for each aboveground flammable or combustible liquid storage tank registered with the state fire marshal.

~~a.~~ The owner or operator shall affix the tag to the fill pipe of each registered aboveground flammable or combustible liquid storage tank.

~~b. A person who conveys or deposits flammable or combustible liquid shall inspect the aboveground flammable or combustible liquid storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the aboveground flammable or combustible liquid storage tank fill pipe, the person conveying or depositing the flammable or combustible liquid may deposit the flammable or combustible liquid in the unregistered tank. However, only one deposit is allowed into the unregistered tank, the person making the deposit shall provide the owner or operator of the tank with another notice as required by subsection 5, and the person shall provide the owner or operator with an aboveground flammable or combustible liquid storage tank registration form.~~

~~c. It is the owner or operator's duty to comply with registration requirements.~~

8. A late registration penalty of twenty-five dollars is imposed in addition to the registration fee for a tank registered after the required date.

DIVISION IV
FUEL TAX

Sec. 11. Section 452A.3, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

Except as otherwise provided in this section and in this division, until June 30, ~~2013~~ 2014, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

Sec. 12. Section 452A.3, subsection 1A, Code 2013, is amended to read as follows:

1A. Except as otherwise provided in this section and in this division, after June 30, ~~2013~~ 2014, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

Sec. 13. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 17, 2013